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Attorneys for Defendants

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

JOHNSON & JOHNSON and JOHNSON &  
JOHNSON CONSUMER COMPANIES, INC.,

Plaintiffs,

v.

THE AMERICAN RED CROSS, LEARNING  
CURVE INTERNATIONAL, INC., MAGLA  
PRODUCTS, LLC, WATER-JEL  
TECHNOLOGIES, INC., and FIRST AID  
ONLY, INC.,

Defendants.

Case No. 07-CV-7061 (JSR/DCF)

**ECF CASE  
ELECTRONICALLY FILED**

**DECLARATION OF JONATHAN L. ABRAM IN  
SUPPORT OF DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

Jonathan L. Abram declares as follows:

1. I am a member of the bar of this Court, admitted pro hac vice, and a partner in the law firm of Hogan & Hartson, LLP. I am counsel for Defendants The American Red Cross, Learning Curve International, Inc., Magla Products, LLC, Water-Jel Technologies, LLC, and First Aid Only, Inc. in the above-captioned action.

2. I submit this declaration in support of Defendants' Motion for Summary Judgment based on my personal knowledge of this case from the initial filing of the complaint,

and of the documents contained in the files that my law firm has received and reviewed concerning the above-mentioned Defendants, publicly available information, and other factual matters known to me.

3. Various of the documents attached to this declaration are from files of the American Red Cross maintained in its Archives and in the National Archives and Records in the ordinary course of business in various locations, including the American Red Cross website located at <http://www.redcross.org>, the Hazel Braugh Records Center and Archives located at 7401 Lockport Place, Lorton, VA 22079; and the U.S. National Archives and Records Administration located at 8601 Adelphi Road, College Park, MD 20740-6001.

4. The parties have agreed that for purpose of trial, the parties will not object as to authenticity regarding documents found in their files that were created by their employees.

5. Attachment A to this declaration is an index of Exhibits 1 through 162.

6. Attached as Exhibit 1 is a true and correct copy of an article from the ARC Museum, "A Brief History of the American Red Cross" on the ARC website.

7. Attached as Exhibit 2 is a true and correct copy of the Articles of Incorporation, American Association of the Red Cross, July 1, 1881.

8. Attached as Exhibit 3 is a true and correct copy of an excerpt from ARC Governance for the 21st Century, Section 1, Oct. 2006.

9. Attached as Exhibit 4 is a true and correct copy of the Trademark Registration No. 30,428.

10. Attached as Exhibit 5 is a true and correct copy of a Letter from Edward Moore, Commissioner of Patents, to Charles Magee, ARC, Oct. 12, 1907.

11. Attached as Exhibit 6 is a true and correct copy of a Letter from ARC Chairman to Edward Moore, Commission of Patents, Oct. 2, 1907.

12. Attached as Exhibit 7 is a true and correct copy of a Letter from ARC Chairman to Edward Moore, Commissioner of Patents, Oct. 16, 1907.

13. Attached as Exhibit 8 is a true and correct copy of the Trademark Record for U.S. Serial No. 89/000,081.

14. Attached as Exhibit 9 is a true and correct copy of U.S. Reg Nos. 2,740,131 and 2,818,964.

15. Attached as Exhibit 10 is a true and correct copy of U.S. Registrations for U.S. Reg. Nos. 2,771,239; 2,740,133; 2,797,013; and 2,818,867.

16. Attached as Exhibit 11 is a true and correct copy of excerpts of the Deposition of Richard Biribauer, Nov. 9, 2007 ("Biribauer Dep.") 22, 50, 66, 70, 71-74, 77, 113-115, 118-122, 131, 196-198, 224-226, 231, 259, 262.

17. Attached as Exhibit 12 is a true and correct copy of the Consolidated Financial Statements, June 30, 2005, including the Independent Auditor's Report signed by the Auditor General of the Army, Oct. 21, 2005.

18. Attached as Exhibit 13 is a true and correct copy of the 1903 first aid kit photograph, listing the price of a first aid textbook as \$1.00.

19. Attached as Exhibit 14 is a true and correct copy of an excerpt of the ARC Annual Report for the Year Ending December 31, 1903.

20. Attached as Exhibit 15 is a true and correct copy of an excerpt of the ARC Annual Report for the Year Ending December 31, 1904.

21. Attached as Exhibit 16 is a true and correct copy of the Agreement between ARC and First Aid Supply of the Red Cross, Feb. 20, 1904.

22. Attached as Exhibit 17 is a true and correct copy of the First Aid Supply Catalog of ARC first aid kits.

23. Attached as Exhibit 18 is a true and correct copy of an excerpt of the Fifth Annual Report of the ARC, Jan. 1, 1910.

24. Attached as Exhibit 19 is a true and correct copy of an excerpt of the Sixth Annual Report of ARC, Feb. 21, 1911.

25. Attached as Exhibit 20 is a true and correct copy of the Report of First Aid Department, 1910.

26. Attached as Exhibit 21 is a true and correct copy of an excerpt of the Eleventh Annual Report of the American National Red Cross, 1915.

27. Attached as Exhibit 22 is a true and correct copy of the Memorandum on Future Policy of the First Aid Department, 1911.

28. Attached as Exhibit 23 is a true and correct copy of an excerpt of the Seventh Annual Report of ARC, Apr. 1, 1912.

29. Attached as Exhibit 24 is a true and correct copy of a Letter from F.W. Lehmann, Office of the Solicitor General, to George W. Davis, ARC, Jan. 13, 1912.

30. Attached as Exhibit 25 is a true and correct copy of a Letter from ARC Chairman of the Central Committee to Frederick Lehmann, Office of the Solicitor General, Jan. 15, 1912.

31. Attached as Exhibit 26 is a true and correct copy of an excerpt of the Eighth Annual Report of ARC, May 16, 1913.

32. Attached as Exhibit 27 is a true and correct copy of an excerpt of the Ninth Annual Report of the American National Red Cross, June 10, 1914.

33. Attached as Exhibit 28 is a true and correct copy of an excerpt of the Tenth Annual Report of the American National Red Cross, Mar. 4, 1915.

34. Attached as Exhibit 29 is a true and correct copy of an excerpt of the Twelfth Annual Report of ARC to Congress, Dec. 13, 1916.

35. Attached as Exhibit 30 is a true and correct copy of an Advertising Request and Approval, May 6, 1916.

36. Attached as Exhibit 31 is a true and correct copy of an excerpt of a Catalogue of Supplies and Books—First Aid and Life Saving, 1917.

37. Attached as Exhibit 32 is a true and correct copy of an excerpt of the Annual Report of the ARC, Dec. 1917.

38. Attached as Exhibit 33 is a true and correct copy of “Selling Red Cross Christmas Seals, Circular B., A Guide for Agents,” Revised ed. 1917.

39. Attached as Exhibit 34 is a true and correct copy of a Letter from Florence Hayford, First Aid Department, ARC, to Colonel Connor, ARC, and accompanying report, Dec. 1, 1919.

40. Attached as Exhibit 35 is a true and correct copy of a Request for Authorization, Mar. 15, 1920.

41. Attached as Exhibit 36 is a true and correct copy of a Request for Appropriation, May 24, 1920.

42. Attached as Exhibit 37 is a true and correct copy of a Statistical Questionnaire for National Headquarters, Report of First Aid Activities of the Northern Division, 1921.

43. Attached as Exhibit 38 is a true and correct copy of a Statistical Questionnaire for National Headquarters, Report of First Aid Activities of the Northern Division, 1920.

44. Attached as Exhibit 39 is a true and correct copy of a Statistical Questionnaire for National Headquarters, Report of First Aid Activities of the Potomac Division, 1921.

45. Attached as Exhibit 40 is a true and correct copy of a Statistical Questionnaire for National Headquarters, Report of First Aid Activities of the Northwestern Division, 1921.

46. Attached as Exhibit 41 is a true and correct copy of a Statistical Questionnaire for National Headquarters, Report of First Aid Activities of the Penn-Del Division, 1921.

47. Attached as Exhibit 42 is a true and correct copy of a Statistical Questionnaire for National Headquarters, Report of First Aid Activities of the Southern Division, 1921.

48. Attached as Exhibit 43 is a true and correct copy of a Statistical Questionnaire for National Headquarters, Report of the First Aid Activities of Dr. Eric S. Green, 1920.

49. Attached as Exhibit 44 is a true and correct copy of a Statistical Questionnaire for National Headquarters, Report of First Aid Activities of the Northern Division, Jan. 1920.

50. Attached as Exhibit 45 is a true and correct copy of a Statistical Questionnaire for National Headquarters, Report of First Aid Activities of the Northern Division, Feb. 1920.

51. Attached as Exhibit 46 is a true and correct copy of a Statistical Questionnaire for National Headquarters, Report of First Aid Activities of the Northern Division, Mar. 1920.

52. Attached as Exhibit 47 is a true and correct copy of a Schedule of Prices on Red Cross Textbooks, July 1, 1926.

53. Attached as Exhibit 48 is a true and correct copy of an excerpt of a Catalogue of Supplies and Books—First Aid and Life Saving, 1932.

54. Attached as Exhibit 49 is a true and correct copy of the 1933 First Aid and Life Saving Catalogue of Supplies and Insignia and accompanying cover letter.

55. Attached as Exhibit 50 is a true and correct copy of the 1937 First Aid and Life Saving Catalogue of Supplies and Insignia, July 1937.

56. Attached as Exhibit 51 is a true and correct copy of a photograph of first aid textbook and caption.

57. Attached as Exhibit 52 is a true and correct copy of an article, "Red Cross Chapter Elects Officers for Coming Year," Pajaronian, Mar. 11, 1919.

58. Attached as Exhibit 53 is a true and correct copy of a Summary of Essential Supplies Incidental to the Activities of ARC Distributed Principally Through its Chapters for Fiscal Year 1940-41.

59. Attached as Exhibit 54 is a true and correct copy of an excerpt of the Montgomery County, Ohio Chapter Annual Report for 1938-1939.

60. Attached as Exhibit 55 is a true and correct copy of an excerpt of the Buffalo, New York Chapter Annual Report for 1939-1940.

61. Attached as Exhibit 56 is a true and correct copy of an excerpt of the Cincinnati and Hamilton County, Ohio Chapter Annual Report for 1939-1940.

62. Attached as Exhibit 57 is a true and correct copy of an excerpt of the Buffalo, New York Chapter Annual Report for 1940-1941.

63. Attached as Exhibit 58 is a true and correct copy of an excerpt of the Hammond, Indiana Chapter Annual Report for 1942-1943.

64. Attached as Exhibit 59 is a true and correct copy of an excerpt of the Poweshiek County, Iowa Chapter Annual Report for 1944.

65. Attached as Exhibit 60 is a true and correct copy of an excerpt of the Sebastian County, Arkansas Chapter Annual Report for 1945.

66. Attached as Exhibit 61 is a true and correct copy of an excerpt of the Evansville, Indiana Chapter Annual Report for 1946-1947.

67. Attached as Exhibit 62 is a true and correct copy of an excerpt of the Greenville, North Carolina Chapter Annual Report for 1946-1947.

68. Attached as Exhibit 63 is a true and correct copy of an excerpt of the Cass County, North Dakota Chapter Annual Report for 1951-1952.

69. Attached as Exhibit 64 is a true and correct copy of an excerpt of the Mercer County, Pennsylvania Chapter Annual Report for 1951-1952.

70. Attached as Exhibit 65 is a true and correct copy of an excerpt of the Chemung County, New York Chapter Annual Report for 1953-1954.

71. Attached as Exhibit 66 is a true and correct copy of an excerpt of the Upper Pinellas, Florida Chapter Annual Report for 1954-1955.

72. Attached as Exhibit 67 is a true and correct copy of an excerpt of the Mercer County, Pennsylvania Chapter Annual Report for 1955-1956.

73. Attached as Exhibit 68 is a true and correct copy of an excerpt of the Rochester-Monroe County, New York Chapter Annual Report for 1957-1958.

74. Attached as Exhibit 69 is a true and correct copy of an excerpt of the Upper Pinellas, Florida Chapter Annual Report for 1957-1958.

75. Attached as Exhibit 70 is a true and correct copy of an excerpt of the Rutherford County, North Carolina Chapter Annual Report for 1958-1959.



76. Attached as Exhibit 71 is a true and correct copy of an excerpt of the Chenango County, New York Chapter Annual Report for 1959-1960.

77. Attached as Exhibit 72 is a true and correct copy of an excerpt of the Chenango County, New York Chapter Annual Report for 1961-1962.

78. Attached as Exhibit 73 is a true and correct copy of a Memorandum re: Supplies for Chapters from George Smith, Mar. 29, 1948.

79. Attached as Exhibit 74 is a true and correct copy of a Memorandum from Mr. Wick to ARC Field Office Managers and Division Managers, July 10, 1981.

80. Attached as Exhibit 75 is a true and correct copy of excerpts of the Deposition of Andrea Morisi (Nov. 9, 2007) 128, 134, 136-137, 139-142, 144-149, 151-153, 155, 213, 225-229, 231.

81. Attached as Exhibit 76 is a true and correct copy of an excerpt of Mall Service Center Analysis: One Year of Experience, Greater Kansas City Chapter, Aug. 1992.

82. Attached as Exhibit 77 is a true and correct copy of a Brochure on Innovative Service Delivery—The Mall Way, ARC Greater Kansas City Chapter.

83. Attached as Exhibit 78 is a true and correct copy of photographs of Red Cross Mall Store.

84. Attached as Exhibit 79 is a true and correct copy of an excerpt of American Red Cross in Greater New York, New Headquarters, Nov. 14, 2006.

85. Attached as Exhibit 80 is a true and correct copy of various news accounts of chapter sales of first aid kits, including: “Emergency! Handling trouble on the road,” Consumer Reports, April 1992, 1992 WLNR 111350; “Don’t Let Car Trouble Drive You Crazy,” Miami Herald, Aug. 23, 1986, 1986 WLNR 489975; “Organize First-Aid Supplies to get you Through

Scrapes,” Miami Herald, Aug. 30, 1987, 1987 WLNR 631865; “Purge Cabinet of Unneeded,” South Florida Sun-Sentinel, Sept. 2, 1993, 1993 WLNR 4299238; “Earthquakes Hitting Home,” Oregonian, Sept. 22, 1993, 1993 WLNR 4496026; “First Aid Kits Suggested As Gifts,” Roanoke Times, Nov. 16, 1993, 1993 WLNR 1032392; “Health Watch,” Charlotte Observer, June 6, 1994, 1994 WLNR 1734444, “First Aid Kits Reduced,” Cincinnati Post, Dec. 6, 1996, 1996 WLNR 844337; “Red Cross Offers First Aid Kits For Sale,” Fort Pierce Tribune, Nov. 23, 1999, 1999 WLNR 6121260; “Red Cross Offers Gifts That Can Save Lives,” Buffalo News, Dec. 21, 1997, 1997 WLNR 1253000; “Injury Season: Summer’s the Time to Update, Put Together First Aid Material,” Birmingham News, June 9, 2003, 2003 WLNR 15947598.

86. Attached as Exhibit 81 is a true and correct copy of a Memorandum, Oct. 24, 1911.

87. Attached as Exhibit 82 is a true and correct copy of a Letter from Charles Lynch to Mabel Boardman, Aug. 22, 1911.

88. Attached as Exhibit 83 is a true and correct copy of a Letter from Mabel Boardman to Charles Lynch, Aug. 18, 1911.

89. Attached as Exhibit 84 is a true and correct copy of an excerpt of the 1942 House Hearings 170.

90. Attached as Exhibit 85 is a true and correct copy of the 1942 Senate Hearing 29.

91. Attached as Exhibit 86 is a true and correct copy of an Attachment to Letter from John Currin, ARC, to Michael Kelly, Counselor to the Attorney General, Sept. 12, 1978.

92. Attached as Exhibit 87 is a true and correct copy of a Letter from Philip Heymann, Assistant Attorney General, to John Currin, ARC, Oct. 11, 1978.

93. Attached as Exhibit 88 is a true and correct copy of an IRS Revenue Ruling, Feb. 8, 1985.

94. Attached as Exhibit 89 is a true and correct copy of Consumer Reports, Nov. 1986.

95. Attached as Exhibit 90 is a true and correct copy of The Daily Bulletin, ARC, June 1, 1986.

96. Attached as Exhibit 91 is a true and correct copy of an advertisement for “American Red Cross First Aid: The Video Kit.”

97. Attached as Exhibit 92 is a true and correct copy of “The Difference We Make Makes All the Difference,” The Charlotte Observer Special Marketing Supplement, June 16, 1987.

98. Attached as Exhibit 93 is a true and correct copy of a Horchow Catalog excerpt, May 1987.

99. Attached as Exhibit 94 is a true and correct copy of a Curad/ARC First Aid Kit Advertisement.

100. Attached as Exhibit 95 is a true and correct copy of Supply Catalog Purchase Items, May 1989.

101. Attached as Exhibit 96 is a true and correct copy of a Memorandum from Jack Weakley to R. Biribauer, June 17, 1992 (FILED UNDER SEAL).

102. Attached as Exhibit 97 is a true and correct copy of an American Red Cross Sales Brochure.

103. Attached as Exhibit 98 is a true and correct copy of excerpt of an ARC Supply Catalog, June 1994.

104. Attached as Exhibit 99 is a true and correct copy of a Licensing Agreement, Feb. 1, 1995.

105. Attached as Exhibit 100 is a true and correct copy of a Cause Related Marketing Agreement, Dec. 20, 2004.

106. Attached as Exhibit 101 is a true and correct copy of a Letter from Jennifer Niyangoda, ARC, to Kathleen Weber, J&J, May 11, 2007.

107. Attached as Exhibit 102 is a true and correct copy of excerpts of the Deposition of Rebecca Gibbs (Nov. 16, 2007) 59-60, 63, 121, 125, 127, 131-132.

108. Attached as Exhibit 103 is a true and correct copy of excerpts of the Deposition of Jennifer Niyangoda (Nov. 16, 2007) 232-240, 249, 265-266.

109. Attached as Exhibit 104 is a true and correct copy of a Letter from Eugene Ross of J&J to Mabel Boardman of ARC, Apr. 2, 1904.

110. Attached as Exhibit 105 is a true and correct copy of a Letter from Eugene Ross of J&J to Mabel Boardman of ARC, Mar. 31, 1904.

111. Attached as Exhibit 106 is a true and correct copy of a Letter from H.P. Jones, 2d Vice President of Johnson & Johnson, to Major Charles Lynch of ARC, 1913.

112. Attached as Exhibit 107 is a true and correct copy of a Letter from Archibald Cox to General Eliot Wadsworth, Acting Chairman of ARC, Aug. 16, 1917.

113. Attached as Exhibit 108 is a true and correct copy of a Letter from General Eliot Wadsworth, Acting Chairman of ARC to Archibald Cox, Sept. 6, 1917.

114. Attached as Exhibit 109 is a true and correct copy of a Letter from Kenneth Perry of J&J to H.J. Hughes of ARC, May 25, 1937.

115. Attached as Exhibit 110 is a true and correct copy of a Letter from H.S. Mueller, J&J, to W.E. Dorsett, J&J, Aug. 14, 1984.

116. Attached as Exhibit 111 is a true and correct copy of a Letter from Richard Biribauer, Attorney J&J, to Patricia Xeller, Assistant General Counsel ARC, Oct. 18, 1984.

117. Attached as Exhibit 112 is a true and correct copy of a Letter from Lewellys Barker, Senior Vice President at ARC, to Wayne Dorsett, Vice President/General Manager at J&J, Sept. 12, 1984.

118. Attached as Exhibit 113 is a true and correct copy of a Letter from H. Mueller, J&J, to Virginia Pie, ARC, June 12, 1985.

119. Attached as Exhibit 114 is a true and correct copy of “More Nonprofit Groups Make Imaginative, Aggressive Sales,” Wall Street Journal, May 31, 1984.

120. Attached as Exhibit 115 is a true and correct copy of a Memorandum from John Healey, J&J, Re: Meeting on First Aid Kit Opportunities with American Red Cross, Feb. 3, 1997 (FILED UNDER SEAL).

121. Attached as Exhibit 116 is a true and correct copy of ARC/Johnson & Johnson First Aid Kits materials.

122. Attached as Exhibit 117 is a true and correct copy of a Memorandum to Susan Livingston, Jan. 3, 1997.

123. Attached as Exhibit 118 is a true and correct copy of a Memorandum from Julio Del Cioppo, J&J, to John Healey, J&J, Re: J&J First Aid Kit—American Red Cross Study, Jan. 30, 1997 (FILED UNDER SEAL).

124. Attached as Exhibit 119 is a true and correct copy of a Letter from John Healey, J&J, to Ferris Kaplan, ARC, Feb. 27, 1997.

125. Attached as Exhibit 120 is a true and correct copy of a Letter from John Healey, J&J, to Ferris Kaplan, ARC, May 7, 1997.

126. Attached as Exhibit 121 is a true and correct copy of a Letter from Peter Garibaldi, Jr., J&J, to Ferris Kaplan enclosing marked up version of J&J/ARC First Aid Kit Contract, Aug. 15, 1997.

127. Attached as Exhibit 122 is a true and correct copy of a Confidential Disclosure Statement, Nov. 14, 2006 (FILED UNDER SEAL).

128. Attached as Exhibit 123 is a true and correct copy of excerpts of the Deposition of Jeffrey Tolonen, Nov. 7, 2007 ("Tolonen Dep.") 17, 91-95, 165-214, 232-235.

129. Attached as Exhibit 124 is a true and correct copy of the J&J/ARC Partnership Update, Jan. 2007 (FILED UNDER SEAL).

130. Attached as Exhibit 125 is a true and correct copy of Hearings Before the Subcommittee on Oversight of the Committee on Ways and Means.

131. Attached as Exhibit 126 is a true and correct copy of an excerpt of Blood Safety, Minimizing Plasma Product Risks: Hearing Before the Subcomm. on Human Resources of the H. Comm. on Gov't Reform and Oversight, 105th Cong. 111-118 (1998)

132. Attached as Exhibit 127 is a true and correct copy of an excerpt of FDA Oversight: Blood Safety and the Implications of Pool Sizes in the Manufacture of Plasma Derivatives: Hearing Before the Subcomm. on Human Resources of the H. Comm. on Gov't Reform and Oversight, 105th Cong. 136-144 (1997).

133. Attached as Exhibit 128 is a true and correct copy of a Letter of Agreement, Oct. 1, 1986.

134. Attached as Exhibit 129 is a true and correct copy of the ARC-Water-Jel Agreement & Amendment.

135. Attached as Exhibit 130 is a true and correct copy of Water-Jel's Response to J&J's First RFA, Responses to RFAs 1, 4, 26-28.

136. Attached as Exhibit 131 is a true and correct copy of ARC's Response to J&J's First RFA, Responses to RFAs 79-82, 86, 89-90, 105-109, 113, 117, 133-136, 146, 155, 176, 182, 191, 196.

137. Attached as Exhibit 132 is a true and correct copy of excerpts of the Deposition of Howard Hirsch (Nov. 8, 2007) 10-13, 57-58, 63, 108-111, 134.

138. Attached as Exhibit 133 is a true and correct copy of the ARC-First Aid Only Agreements & Amendments.

139. Attached as Exhibit 134 is a true and correct copy of excerpts of the Deposition of Dick James (Nov. 16, 2007) 29-39, 186-189, 197-200, 215-217, 260, 262, 292-299.

140. Attached as Exhibit 135 is a true and correct copy of excerpts of the Deposition of Julie Ortmeiyer (Nov. 14, 2007) 176, 200-201, 204-205.

141. Attached as Exhibit 136 is a true and correct copy of First Aid Only's Response to J&J's First RFA, Responses to RFAs 1, 4, 27-28, 42.

142. Attached as Exhibit 137 is a true and correct copy of the ARC-Learning Curve Agreement & Amendment.

143. Attached as Exhibit 138 is a true and correct copy of an excerpt of the Deposition of Patrick Meyer (Nov. 15, 2007) 66.

144. Attached as Exhibit 139 is a true and correct copy of an excerpt of the Deposition of Kyle Nanna (Nov. 13, 2007) 144.

145. Attached as Exhibit 140 is a true and correct copy of the ARC-Magla Agreement & Amendment.

146. Attached as Exhibit 141 is a true and correct copy of excerpts of the Deposition of Allison Carpinello (Nov. 9, 2007) 17-19, 128, 167-168.

147. Attached as Exhibit 142 is a true and correct copy of excerpts of the Deposition of Daniel Levine (Nov. 9, 2007) 44-47, 49, 52, 71-72, 104, 108, 111, 113, 115.

148. Attached as Exhibit 143 is a true and correct copy of excerpts of the Deposition of Amlin Kotei, (Nov. 6, 2007) 19, 23-25, 92, 155-156, 158, 161.

149. Attached as Exhibit 144 is a true and correct copy of an excerpt of the Deposition of Jeffrey Leebaw (Nov. 7, 2007) 76.

150. Attached as Exhibit 145 is a true and correct copy of Target/J&J Joint Business Planning, 2007 (FILED UNDER SEAL).

151. Attached as Exhibit 146 is a true and correct copy of U.S. Registration No. 54,308.

152. Attached as Exhibit 147 is a true and correct copy of U.S. Registration Nos. 1,888,143 and 1,889,576.

153. Attached as Exhibit 148 is a true and correct copy of photographs of Emergency First Aid Kit and All Purpose First Aid Kit, exhibit to Biribauer Dep.

154. Attached as Exhibit 149 is a true and correct copy of a photograph of J&J Emergency First Aid Kit, exhibit to Kotei Dep.

155. Attached as Exhibit 150 is a true and correct copy of a photograph of J&J All-Purpose First Aid Kit, exhibit to Kotei Dep.

156. Attached as Exhibit 151 is a true and correct copy of a photograph of J&J Emergency First Aid Kit, exhibit to Tolonen Dep.



157. Attached as Exhibit 152 is a true and correct copy of the 1904 J&J catalog.

158. Attached as Exhibit 153 is a true and correct copy of the File Wrapper for Registration No. 3,178,913 (“ ’913 Registration”).

159. Attached as Exhibit 154 is a true and correct copy of a photograph of product using ’913 Registration.

160. Attached as Exhibit 155 is a true and correct copy of J&J Admissions, Response to RFA 10.

161. Attached as Exhibit 156 is a true and correct copy of the ARC 2006 Annual Report.

162. Attached as Exhibit 157 is a true and correct copy of photographs of ARC products under the Water-Jel Agreement.

163. Attached as Exhibit 158 is a true and correct copy of photographs of ARC products under the First Aid Only Agreement.

164. Attached as Exhibit 159 is a true and correct copy of photographs of ARC products under the Learning Curve Agreement.

165. Attached as Exhibit 160 is a true and correct copy of photographs of ARC products under the Magla Agreement.

166. Attached as Exhibit 161 is a true and correct copy of an article from the ARC Museum, “American Red Cross Chapters” on the ARC website.

167. Attached as Exhibit 162 is a true and correct copy of a photograph of J&J Hospital Products for Home Care product.

I declare the foregoing to be true and correct under penalty of perjury. This declaration is executed by me in Washington, D.C. this 21st day of November, 2007.

s/ Jonathan L. Abram

Jonathan L. Abram